

CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE

DATE: April 14, 2005

CALLED TO ORDER: 6:15 p.m.

ADJOURNED: 9:55 p.m.

ATTENDANCE

ATTENDING MEMBERS

Angela Mansfield, Chair
Patrice Abduallah
Greg Bowes
Jim Bradford
Susie Day
Scott Keller
William Oliver
Steve Talley

ABSENT MEMBERS

AGENDA

PUBLIC FORUM

Members of the public will be invited to express their views regarding the proposed smokefree air act.

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas
(Several public hearings are anticipated on this proposal before a recommendation is made to the full Council. The proposal was postponed for action until May 5, 2005.)

CHILDREN'S HEALTH AND ENVIRONMENT COMMITTEE

The Children's Health and Environment Committee of the City-County Council met on Thursday, April 14, 2005 at Shortridge Middle School located at 3401 North Meridian Street. Chair Angela Mansfield called the meeting to order at 6:15 p.m. with the following members present: Patrice Abdullah, Greg Bowes, Jim Bradford, Susie Day, Scott Keller, William Oliver, and Steve Talley. Councillors Sanders and Plowman were also in attendance.

PUBLIC FORUM

PROPOSAL NO. 45, 2005 - amends the Code by establishing nonsmoking areas *(Several public hearings are anticipated on this proposal before a recommendation is made to the full Council. The proposal was postponed for action until May 5, 2005.)*

Chair Mansfield welcomed everyone to Shortridge Middle School and thanked those associated with the school for allowing them to use the facility. She stated that before she opens the meeting for public testimony, James Wolff, Director of the Indiana University Public Opinion Lab, will offer a brief presentation regarding recent surveys conducted related to the smokefree issue.

Mr. Wolff stated that he was asked by Smoke Free Indy to conduct a series of surveys to assess public opinion about smoking, secondhand smoke, and support of a smokefree ordinance. He said that they created eight surveys and conducted random samples of 600 adults from all ages, races and genders in Marion County and surrounding counties. The margin of error for these surveys is approximately four percent. In Marion County, 24% of adults surveyed were smokers, with the highest percentage of smokers in Shelby County at 29%. He said that in Marion County about three-fourths of those people surveyed already work in a smokefree workplace and 88% of the adults agree that Marion County workers should be protected from secondhand smoke. He said even among smokers, two-thirds of them also agreed that workers should be protected from secondhand smoke. He said that 87% of those surveyed agreed that restaurants would be healthier for customers and employers if they were smokefree. He said that two-thirds of the smokers also agreed with that opinion. Of those surveyed, 60% agree that exposure to secondhand smoke is a very serious health hazard. Mr. Wolff said that three-fourths of adults feel that the rights of customers and employees to breathe smokefree air is more important than the rights of smokers to smoke. He said that two-thirds of Marion County adults surveyed support smokefree restaurants. Those surveyed were asked about their eating-out habits and about 52% said they would go out to eat the same amount as they do now if the

smokefree ordinance was passed. Only 17% said they would go out less often, and 30% said they would go out more often if Indianapolis went smokefree. Therefore, the surveys conducted show that the majority of the public supports smokefree restaurants and would actually increase business if this ordinance was passed. He said that there was no indication that passage of the proposal would have a negative impact on restaurants in Marion County.

Councillor Bradford asked if the survey included any questions asking the public if they would support the government telling someone how to operate their business. Mr. Wolff said that this question was not included. Councillor Bradford asked with all these wonderful results, why are restaurants not already smokefree if it is what the public wants. Chair Mansfield stated that these questions are outside of the scope of the survey that was done. Mr. Wolff added that this study was simply to garner public opinion about a smokefree possibility, and other questions would have had to have been asked to get this type of information.

Councillor Bowes asked what Mr. Wolff did to break down the information as to how one area of the County might have a different viewpoint than another area. Mr. Wolff said that they purchased a random sample from a firm that specializes in demographics to insure that the final sample was representative of an overall view of Marion County and included quite a diverse group.

Chair Mansfield stated that the Indianapolis Chamber of Commerce has taken a position on the proposal and is here to explain that position to the Committee.

Mark Fisher, business advocacy manager for the Indianapolis Chamber of Commerce, introduced members of the Chamber's board of directors Bob Brody and Tim Worthington, and stated that they will speak as to the Chamber's position on Proposal No. 45, 2005. Mr. Brody stated that he is the president and chief executive officer of St. Francis Hospital and Health Centers and serves on the Chamber's board of directors. He stated that a task force was created to discuss the effect of Proposal No. 45, 2005 on local businesses. After discussing the issue in an open and honest manner, a policy position was devised and unanimously ratified by the board of directors. He provided a copy of the Chamber's position to Committee members (attached as Exhibit A) and read from the statement, which supports the ban with limitations. Mr. Brody detailed the changes they would like to see to the proposal. Mr. Worthington, vice chairman of General Hotels Corporation, shared that hotels are required to provide 75% of their rooms as non-smoking. He said that the market and population will eventually decide when and where an establishment should be smokefree, and most of the restaurants in his hotels are smokefree because of the market demand. He said that he agrees that it is important to protect children from secondhand smoke, but adults know the risks and should be allowed to make their own decisions in establishments where children are not allowed. Mr. Worthington said that Proposal No. 45, 2005 is probably the toughest non-smoking bill he has seen in this country, and he asked the Committee to consider the compromise the Chamber is offering.

Chair Mansfield said that she has concerns about the suggestion that the ban only be placed on establishments that allow customers under the age of 18 to enter. She said that there are factories, offices, and other types of businesses that allow employees at the age of 18, but these workers should also be protected. Mr. Fisher said that they realize secondhand smoke is a health problem, but 18 is the legal adult age, and therefore if it is a legal activity, a legal adult should be able to make their own decision. Chair Mansfield said that there may be adults in the business that make an adult decision to smoke which affects another adult who needs the employment but does not have a choice about the decision. Mr. Fisher said that when it is a legal activity, adults should be allowed to make adult decisions for themselves.

Councillor Bowes asked how much the Chamber has taken into consideration the impact of secondhand smoke on the co-workers who do not smoke. He said in a company where 72 people are non-smokers and 28 are smokers, how do the non-smokers' rights factor into the Chamber's recommendations to protect those workers. Mr. Fisher said that most businesses have specific smoking areas and the majority of workspace is smokefree. He said that the issue is when government regulations are being imposed on free enterprise. Mr. Worthington said that the Chamber did take this into consideration when making their recommendations.

Councillor Keller said that the Committee has heard a lot of testimony from bar and tavern owners. He said they have not really heard from other businesses such as hair salons or offices, and he asked why the Chamber is simply not recommending exemptions for bars and taverns who have testified there will be an economic impact, instead of all places over the age of 18. Mr. Fisher said that the Chamber represents all kinds of businesses and is not considering just bars, taverns and restaurants. He said that they have members that would support the full ban as written and also have members who would oppose any type of ban. Through their task force process, they have found their position to be the best solution for all their members. Councillor Keller asked if the signage posting requirement recommended would include both employees and customers, so that both employees and customers know what to avoid if they have particular health issues. Mr. Fisher said that it does, and if the establishment is non-smoking, employees would not be able to smoke, either.

Councillor Bradford said that it is his understanding that Mr. Worthington has changed many of his establishments and made the decision to go smokefree on his own and was not told by government to do so. Mr. Worthington said that this is correct. Councillor Bradford said that he understands some concerns about raising the age of smoking establishments to 21 instead of 18, but 18 is the legal age for a person to work in a bar or many over-21 establishments. Although they cannot serve alcohol, an 18-year-old can perform in a band, bus tables, park cars, or serve as a hostess. He said that this is State law. Mr. Fisher said that this is the reason the recommendation was made for 18 years old, because this was taken into consideration.

Councillor Oliver asked for a definition of a cigar bar. Mr. Fisher said that the most common one he can think of is Nicky Blaine's Cigar and Martini Bar, and it would be an exemption intended for an establishment that had a large portion of their sales revenue due to the sale of tobacco items.

Councillor Bradford stated that according to the amended version of the ordinance that is before the Committee at this time, a cigar bar would be defined as an establishment that has 10% or more of their revenue due to the sale of tobacco products. He added that with regards to the posting requirement, the Restaurant Association already has decals for businesses to use to identify themselves as smoking or non-smoking, as he has one in his restaurant.

Councillor Abdullah asked about the exemption for private establishments and clubs and asked if the workers in these places were taken into consideration. Mr. Fisher said that most private clubs are not open to the public and are only available for members paying dues. It is up to these due-paying members to decide whether or not their establishment should be smokefree or engage in any legal activity, as long as the general public is not allowed.

Chair Mansfield thanked Mr. Fisher, Mr. Brody, and Mr. Worthington for taking the time to formulate a position, and for sharing that position with the Committee this evening.

Bruce Hetrick, columnist for the Indiana Business Journal, said that if he had his way, he would rather not be here this evening. He said that the Chamber, of which he is a member, claims that the Council must balance human health and corporate profit, and members of the Council have told him they are tired of this issue and they want it to go away. He said that this issue is not about statistics or balance, but it is about life and death. He said that while he empathizes with Council members who are frustrated with this decision, the people of this community elected them, not profit-minded business people, to preserve the health of citizens. He is here to speak to this proposal because one citizen they were supposed to protect cannot be here this evening. That citizen was his wife of 14 years, stepmother to his twin sons, and a journalistic voice in this community. Pamela Klein, was a victim of secondhand smoke. Before she could begin her sixth round of cancer treatment, his wife died from smoker's cancer, even though she had never smoked. As an adult, his wife's job as a journalist led her to many public places where smoking was allowed. Those who would limit this proposal to apply only to the protection of children and exempt those over the age of 21 should think about his wife. He said that while her death certificate does not list secondhand smoke as the cause, it lists metastatic cancer, for which 90% of all cases are connected to tobacco. Every law-abiding food and alcohol-serving establishment in this County follows food and service regulations every day to protect the health and safety of employees and customers. Any Councillor who thinks that government does not have a role in keeping bars and restaurants safe, should read the existing 103 pages of regulations on such establishments. Because of government, restaurants cook chicken to 160 degrees, buy shatter-resistant light bulbs, and make employees wash their hands with specific

cleansers. Because of government, employees are prohibited from smoking around a customer's food, while customers are free to spew tobacco all over his loved ones and their food and drink. Indianapolis government, through its KnoZone campaign, is paying his company to teach people about dangerous air outdoors, while Indianapolis bar owners and his Chamber of Commerce ask this committee for a compromise. These compromises say that as long as one is an adult, they are stuck breathing contaminated air. He asked the Committee to pass this smoking ban now, not two years from now, for the safety of its citizens. Mr. Hetrick said that he wished those who cherish money so much could buy him back his sons' mother and his reason to live. He urged the Committee to support this proposal in order to save lives.

Chair Mansfield said that over 80 people have signed up to speak this evening, so it is very important to keep remarks within the allotted time so that every person gets the opportunity to be heard.

Jeff McKinney, citizen, says that in his work as a firefighter, he is given breathing apparatus to protect him from smoke inhalation, yet in his workplace, he is subjected to others' smoking. He said that he tries to live a healthy life and is in support of this ordinance. While this is a free country, no one has the right to do something that does someone else harm. He and his family do not go out to eat much because of exposure to smoke. He asked Councillors to protect the citizens of Indianapolis and pass this proposal.

Hester Schultz, citizen, stated that she supports an ordinance to make all workplaces smokefree. She said that she worked for the City of Indianapolis for over 20 years trying to make this community a better place to live. She said that she worked to help meet federal mandates regarding accommodations for those with disabilities. She thanked the Council for considering this issue.

Dr. David Cook said that as a physician and advocate for public health he has seen many instances of secondhand smoke exposure resulting in disease and ultimate death. He said that this proposal is a good thing and he urged the Committee to support it.

David VanHorn, teacher at Indianapolis Public School #83, stated that he has brought some fifth-grade students with him this evening that have been studying this issue, and they would like to share what they have found with the Committee. He introduced Briana who shared that she called 14 neighborhood businesses to ask them questions regarding a possible smokefree ordinance. Of the 14 businesses contacted, 10 were already smokefree, and of the four that were not, only two said they thought their business would decline if they went smokefree. All 14 businesses agreed that secondhand smoke is a public health concern. Mr. VanHorn introduced Justis who shared that he has also learned through research that secondhand smoke is bad for a person's health and can ultimately kill a person. Mr. VanHorn recognized Dominique who said that he would prefer that restaurants be smokefree because he does not like

to inhale smoke into his lungs while he eats. If a person is a basketball player, the smoke in their lungs could cause them problems breathing and could result in them fainting during a game. Mr. VanHorn introduced David who provided Committee members with some petitions he had gathered from his church with 52 signatures of individuals who support the smokefree ordinance. Mr. VanHorn stated that these students participated in a contest to draw a design to represent their group of youth that support a smokefree Indianapolis. The chosen design is imprinted on the shirts the youth are wearing this evening. The group of students presented a brief chanted presentation that supports the smokefree ordinance.

Chair Mansfield thanked the students for their hard work and research into this issue and thanked them for getting involved in their community at such a young age.

Valeria Hall, representing the St. Florian Center, stated that she supports clean air in the workplace. She presented the winning drawing done by high school art student Antonio Turner, a senior at Manual High School, for the Kick-Butts program to help address the issue of secondhand smoke. She said that youth have a lot to say, and though they may not be voters today, she asked the Committee to protect their futures. She said that passing this ordinance may not be the easy thing, but it is the right thing for children and adults alike.

Marcus McGee, Arlington High School student, and Ricky Murff, Broad Ripple High School student, stated that they are a part of the Indiana Minority Health Coalition. They presented Committee members with a petition with 337 signatures of those who support this ordinance. Mr. Murff said that it should be a personal choice whether or not a person wants to breathe in smoke or not, and secondhand smoke makes it hard to breathe for many who have asthma like him.

Jon Sneegas, seventh grader representing VOICE, Indiana's youth-led movement against Big Tobacco, said that every year more than 53,000 people die from exposure to secondhand smoke. He said that secondhand smoke causes asthma, which is a big problem for children. He said that he is learning to be a musician, and he does not want to have to be limited in his opportunities to play in a band because of the dangers of exposure to secondhand smoke. He said that next year, he will be allowed to get a work permit. Most young people start their work careers in restaurants, but too many restaurants allow smoking, and a young person should not have to work in a smoke-filled environment in order to work. It is proven that children exposed to smoke on a daily basis are more apt to grow up to be a smoker themselves. He said that he read in the paper this morning that the Committee might allow restaurants two years to go smokefree, and he wished his teachers would give him two years to finish a project. He said that he and his friends would prefer not to breathe smoke for the first two years of their working careers. Children are told from many sources not to smoke when they grow up, but now the tables have turned and children are telling adults not to smoke. He said that too many people die from secondhand smoke and he does not want to be

one of them. Therefore, he is here this evening to ask the Committee to do the right thing.

Amelia Muñoz, citizen, stated that she worries about her family members and she wants the Committee to help her nieces and nephews who work in smoky places because they do not have a choice. She said that she does not want any family members to be excluded. Everyone needs to be protected now, not in two years.

Nick Baker, American Cancer Society, thanked the sponsors of Proposal No. 45, 2005 for having the courage and dedication to protect the health of Indianapolis citizens. The American Cancer Society's goal is not to put restaurants and bars out of business, but to put cancer out of business. He said that President Teddy Roosevelt believed that "government could be a source of help to a powerless public," and this proposal will protect workers from irresponsible employers. He said that owning a business is not a right, but a privilege, and as such, there are parameters a business owner must abide by on a daily basis.

Juan Pimental, citizen, introduced his family and stated that many Hispanics are afraid to appear before these hearings for fear of losing their jobs. He asked the Committee to pass this proposal so that those Latino members of the community will not have to suffer anymore. He provided the Committee with several petitions signed by other Hispanic families supporting the ordinance.

LeRoy Hunt, citizen, said that he grew up in a smoking environment. He said that the majority of people who die from cancer are direct smokers, and only 5% of those who die of cancer have never smoked. He said that he does not believe there are statistics to back up the dangers of secondhand smoke.

Carlos Paz, coordinator of the Latino Minority Health Coalition, provided copies of signed petitions and said that the life and health of people are more important than the economic interests of a few. He said that thousands of people die every year because of secondhand smoke. He asked how many people the Committee needs to hear about dying before doing something about it.

Nicole Oprisu, owner of an over-21 establishment in Broad Ripple, said that in the last 15 years, her business has grown from a small neighborhood tavern to a high-volume sports bar located in one of the hottest entertainment districts in Indianapolis. One of the contributors to that growth is Broad Ripple's ability to offer to its customers something for everyone. She said that there are places to relax and have a cigarette, and places to relax without a cigarette. The majority of Broad Ripple restaurants offer smokefree dining rooms and these are packed every Friday and Saturday night, just as the many bars and taverns are. She said that market dictation works and shows business owners how to be successful. She said that those who do not like smoky bars do not have to visit them or work in them. This is her livelihood and investment and she should be able to make her own decisions.

John Livengood, Restaurant and Hospitality Association, said that this is not a dollar issue, but is more an issue of civil liberties. He was asked how he felt about some of the compromises being offered, but his question is how civil liberties can be compromised. He said that he has been called a Jeffersonian Democrat, and he believes that most people, whether Democrat or Republican, understand that this is a freedom issue. He said that people should make their demands known by flocking to smokefree restaurants and letting the market decide. He quoted Thomas Jefferson, saying, "Government governs best that governs least."

Glenn Pratt, citizen, said that he has spent a lot of time working on serious environmental issues. Indiana was the first state to ban phosphorous detergents and still has major problems with nutrients in their reservoirs. The Chamber of Commerce is now saying a person cannot bring their child to work on special days or hire interns because there is smoking in the office. Government also governs best when they protect the unprotected. He said that 30 years ago, Eli Lilly & Company banned smoking in their facilities because they knew of the dangers. He said that the cost of human health far outweighs the infringement of the civil rights of people who blow smoke in others' faces.

Raymond Guest, Hamilton County resident, said that it is the role of government to protect the health and safety of its citizens and he supports the ordinance.

Brad Klopfenstein, State Executive Director for the Libertarian Party of Indiana, said that he is a non-smoker. He said that he visited a small appliance store recently where the owner and worker were both smoking. He said that these are the kind of honest, hard-working people that will be affected. Passing this law will turn these law-abiding citizens trying to make a living into criminals. He said that government does not need to dictate to private business owners what their policies should be.

Joseph Bey, Broad Ripple resident and air quality control specialist, said that he believes there are ways to clear the air to acceptable safety standards without banning smoking. He said that the problem is that many people do not use the equipment in order to do this.

Gene Payne, co-owner of an east-side tavern, read an article from a health correspondent that stated there was no link between passive smoking and lung cancer. The World Health Organization that conducted the study would not publish the results, as the findings are an embarrassment to an organization that has spent years and thousands of dollars on anti-tobacco campaigns. He said that there is no proof that secondhand smoke causes cancer.

Patrice Adams, citizen, stated that she is a service worker and it is not fair that her health and life are valued less than an office worker's. She said that most people in the hospitality industry are afraid to speak up for fear of losing their jobs.

Alayna Tatum, citizen, said that she is a voter and strongly supports Proposal No. 45, 2005 because it would create a healthier Indianapolis. She said that the opposition says they would support the ban if it were state or nationwide, but the City cannot wait for the State Legislature to decide this issue. She said every year more and more people are suffering from secondhand smoke-related issues. A smokefree Indianapolis will lead to a smokefree Indiana.

Debbie Hudson, respiratory therapist for Clarian Health, said that there has been plenty of testimony about the effects of secondhand smoke. She added that there has also been lots of testimony from business owners who feel this ordinance is an intrusion. There are already many regulations imposed by government to protect its citizens. If someone walked in this room spraying a can of arsenic, benzene, or formaldehyde, everyone in the room would run from the auditorium, knowing these chemicals are harmful. She said that these same chemicals are in cigarette smoke, and it is not okay to pollute her environment with these dangerous chemicals.

Paul Messplay, Smoke Free Indy, said that he has asthma and has researched this disease thoroughly. He said that he has heard both sides of the issue. With the opponents of this ordinance, it seems to come down to economics and government intervention. He said that the economics issue is really not debatable, because statistics have shown in places that have gone smokefree that there was not an unbearable adverse effect on the bottom line, and in many instances actually improved the business. He said that the major function of government is to protect its citizens. Many people might have died if government had not intervened and forced the removal of asbestos from buildings, enacted food inspections, and enacted a seatbelt law.

Tanya Parrish, citizen of Hamilton County, stated that she and her husband both work in Marion County and her daughter goes to daycare in Marion County. Though they do not vote in Marion County, they spend a majority of their time in Marion County. She said that she and her husband do not go to bars anymore like they did in their younger days because they are aware of the hazards of secondhand smoke. She said that they always request a non-smoking section, but often still have to leave because smoke filters over from the smoking section and she will not subject her daughter to that danger.

Carrie Giger, Hamilton County resident, stated that she also works and spends a lot of time in Marion County. She said that she has been singing with bands in bars for the last seven years, and while it is a choice she has made and something she loves to do, she has recurrent sinus infections because of the smoky atmosphere. She said that it is hard for her to enjoy what she does when she is uncomfortable while performing.

Bill Smythe, owner of four Claude & Annie's Restaurants and Indy Amusements, said he is somewhat pleased to hear that bars and taverns might be considered for an exemption due to the economic hardship this ban would cause. He said that a few

years ago, the Council supported an ordinance the Mayor proposed to ban video violence under the guise of protecting children. This was a violation of constitutional rights, and there was no proof this would harm children, just as there has been no solid proof of the harm to children in this issue, with all the misrepresentation of facts. He said that he sees a lot of hypocrisy coming from elected officials on these types of issues.

Alice Jenkins, a retired registered nurse, provided a couple of testimonies of individuals whose smoking affected their children, who now have asthma and other respiratory problems, even though the children never smoked. She said that she sees this as an easy thing to solve, but not everyone sees it that way.

Bill Bowes, Smoke Free Indy, said that there has been a mountain of evidence about the dangers of secondhand smoke, and there has been nothing to dispute that. He said that the only remotely legitimate concern about this ordinance should be losing business to surrounding counties. However, he does not believe any business will be lost and most places will probably gain customers. The bar owners have themselves testified that 90% of their customers smoke, which proves that non-smokers are not frequenting these establishments, or there would only be approximately 30% of the customers smoking. He said that many businesses have dramatic increases when going smokefree.

Liza Storey, citizen, said that she supports the proposal. She said that she and her fiancé love to go to bars to participate in karaoke, but no longer can do it because of the effects of secondhand smoke. She said that if this ordinance passes, she knows she and her fiancé would go out more often with their friends, instead of buying their own karaoke equipment and inviting friends over.

Jim Doty, Royal Pin Leisure Centers, said that he is concerned about a level playing field. He said that if this were a State law, he would have no problem, but they face losing business to surrounding counties. He said that when they chose to make Woodlawn Bowl a smokefree alley in 1992, they initially lost 27% of their business. He said that people will travel to bowl, and bowlers have a higher percentage of smokers, and they need to have the right to compete for business with surrounding counties. He asked if lounges could be designated as free-standing buildings, as many of their lounges are.

Richard Darko, citizen, said that if the entire state of California can become smokefree, then Marion County can do it. He said that Indianapolis should be a leader and look at this from all viewpoints. He said that this may cost some people some money or some dislocation, but every government service costs some money, just as the installation of sprinklers in an establishment costs money. He said that the Americans with Disabilities Act and the desegregation act cost some business owners money, but they were the right thing to do.

Tiffany Nichols, citizen, said that she has a four-year-old daughter that she wants to protect from secondhand smoke. Marion County should be a leader in this movement, and the surrounding counties will follow. She said that educated people are leaving this state, and it is time Indianapolis takes the lead to make the community a safer place to live.

Beulah Coughenour, former Councilwoman, stated that when she was on the Council, she felt the job of government was to take care of citizens' welfare and health. She said that these two things are not mutually exclusive. When places like California, New York and Florida, who have the most conventions, can go smokefree and not have an adverse effect on their economy, then she doubts it will hurt business here, either. She said that the biggest expense for employers now is health care, and the diseases caused by inhaling smoke are the most costly to treat. She urged the Committee to pass the ordinance for the good of the citizens of Indianapolis.

David Hogan, Hogan's Pub, thanked Councillors Day and Mansfield for their follow-up with him regarding his opinion on this very sensitive matter. He said that there are more children in private clubs, which are exempted from this ordinance, yet children are not allowed in his small bar. Chair Mansfield said that private clubs are currently not exempted in this ordinance, and that was simply a recommendation of the Chamber of Commerce.

Arnie Elzey, resident of Toledo, Ohio, stated that they have a smokefree ordinance that now works after a year. He said that they had several issues to work out after financials were submitted by private businesses. He said that there was a 24% decrease in sales and a loss of 611 jobs in a six-month period. He said that those statistics have been turned around by including some exemptions.

Maria Tishner, citizen, stated that her daughter graduates this year, and although she was accepted at many colleges, she chose Indiana University because Bloomington is smokefree. She asked the Committee to support the proposal and make Indianapolis a safer place to live also.

Mike DeWeese, Buffalo Wild Wings and Dick's Bodacious Barbecue, read a letter from a bartender who is working the Firemen's Convention right now. The letter stated that this is another way for government to take away the rights of small business owners. He said that convention attendees enjoy the freedom of smoking in bars and he personally left California because of their smoking ban. He said that this ordinance will reduce tax revenue.

Charlie Brehob, Sport Bowl, said that there were studies cited at the last meeting about California. He said that the ordinances in California and Florida did hurt the bowling industry and caused many centers to go out of business. He said that Toledo, Ohio is experiencing the same problems. He said that the centers in Bloomington, Indiana lost

20 to 25% of their business after the ban. He encouraged the Committee to consider bowling center bars for exemptions with other bars or ban smoking everywhere.

Dan Hodgkins, executive director for health promotion with the Community Health Network, stated that all of their facilities will be smokefree as of June 1, 2005, and as a health care provider, they feel they should take the lead in such initiatives and act as a positive role model. They have eliminated all smoking areas from hospital property, and there have been over 465 people who have quit and have thanked the hospital for the policy that led to this outcome. He said that watered down policies lead to watered down effects.

Marion Dinkins, citizen, said that he supports the ordinance because he depends on public transportation, and he is frustrated by people who light up cigarettes under the bus stop shelters when they should be considerate and step out from under the shelter. He asked that the Committee not exclude this aspect from the ordinance.

Oscar Morales, citizen, presented the Committee with 34 petitions from St. Patrick Catholic Church in support of the proposal.

Daniel Gangler, ordained minister in the United Methodist Church, stated that the church has taken a position on tobacco in their social principles and read from those principles (attached as Exhibit B). He said that there are more than 100 United Methodist congregations in Marion County.

Julie Bernard, citizen, said that she works part-time as a hostess in a restaurant where there are smoking and non-smoking sections, and many customers complain about the smoke drifting into the non-smoking areas. She said that people will still go out to the clubs and bars with their friends to socialize, whether smoking is allowed or not. She asked the Committee to support the proposal.

Shelley Vaughn, citizen, stated that she supports the ordinance and works in the public health industry. She looks at statistics all day long that tell her this ordinance is a no-brainer, and it is the responsibility of government to take care of its citizens. She said that she used to live in California, and there was not a negative impact on businesses there following the ban as has been portrayed this evening.

Thomas Wills, Indiana Weekender Newspapers, stated that he is a non-smoker but his wife is a smoker. He said that the City-County Building and hospitals have gone smokefree on their own, and there is no need to make a law that limits freedom.

Karey Clock, citizen, stated that it is the role of government to protect its citizens. She said that secondhand smoke kills and she asked that the Committee protect her.

Michael Messer, citizen, stated that he is recovering from chemotherapy and radiation due to throat and neck cancer. He said that secondhand smoke does kill and it is devastating.

Kara Endsley, citizen, said that her body is a holy temple and she needs to protect it. Everyone needs to be educated to know that secondhand smoke affects everyone, especially those minorities who have the jobs in the bars and restaurants where smoking is allowed.

Andrew Crowe, Hendricks County resident, stated that he spends 90% of his time in Marion County, and he hopes that the Committee will support the proposal to keep secondhand smoke from killing any more people.

Nicole Spacey, citizen, said that a friend of hers works for a tobacco company but yet he does not smoke and will not allow smoking in his house. When she asked him why not, he said that it is because he is not stupid. She asked the Committee to support the proposal, because secondhand smoke kills.

Jamie Lee, registered respiratory therapist, said that she manages asthma and COPD patients in 12 inner city clinics and she sees the effects of secondhand smoke on a daily basis. She said that 60% of her patients are exposed to secondhand smoke, and this costs the government \$30 billion a year.

Tanya Johnson, citizen, urged the Committee to support the ordinance. She said that the opposition is based on fear, and more will be risked if the proposal is not passed. She said that alcohol, like cigarettes, is not illegal, but there are regulations to limit the intake and use so that citizens' health is protected. She said that there should be limits on smoking, as well.

Missy Lewis, citizen, presented a banner from students at Butler University in support of a smokefree Indianapolis. She said that college students are the primary patrons and workers in bars and restaurants, and they should be protected.

Mike Shanley, resident of Hamilton County, said that he supports the ordinance, and he believes more business will come into Indianapolis from surrounding counties if the ban is passed. He said that there are more costs associated with the health effects of secondhand smoke than there will be because of any loss of business.

Mamie Ware, Indiana Black Expo, said that when Mr. Hetrick spoke this evening, it really pierced her heart. She asked what price this Committee is willing to pay for human life. She said that this is a tremendous responsibility, but she trusts the Committee to make the best decision for the citizens and pass this ordinance.

Mark Webb, Indiana Licensed Beverage Association, thanked the Committee for listening to independent operators these last few meetings. He said that he hopes the

Committee will recognize the precarious economic situation some of these establishments are in. He said that Indianapolis has a wide variety of smokefree establishments already.

Rebecca Pardue, owner of Marty's Restaurant and Lounge, said that she has invested all her money into her business and she listens to her customers and is now open 24 hours serving breakfast. She said that if the smokers are eliminated, she will not have any patrons and will not be able to survive.

Kent Moore, citizen, said that he is a non-smoker and wishes everyone would quit smoking, but only when it is their personal choice. He opposes this proposal on purely political grounds. He is tired of government stepping in and telling him how to live his life, particularly the public health zealots who claim to know all the facts. He said that it has been said that it is not a right to smoke, but the Bill of Rights does not include the right to life, either. He said that the right to life is contained in a post-amendment to the Bill of Rights which reads that "no branch of government shall restrict a person's right to life, liberty or their privileges." He said that, one by one, liberties are being eroded by a government that thinks they know better. He asked what other rights will be violated in the name of protection. He quoted a Holocaust victim who did not speak up until there was no one left to speak for him.

Tiffinie Smith, Tobacco Free Coalition member, Indiana University-Purdue University of Indianapolis (IUPUI), stated that as a college student, she has had to take jobs in smoking establishments in order to pay her way through college. She said this is not about smokers' rights versus non-smokers' rights. No one is saying that smokers cannot smoke. They are simply asking that they not do it around others so as not to endanger anyone else's health.

Daniel Moffit, Tobacco Free Coalition member, said that as a college student, he is subjected to smoking quite often. He said that smoking stinks and is polluting the air he breathes, and he would appreciate the Committee taking steps to protect his health and quality of life.

Dr. Elizabeth Hamilton-Byrd, citizen, said that she is here to speak as a wife, a mother, and a voter, not as a physician, even though she has seen the horrors smoking causes. She said that no one has the right to inflict harm on another person. People are afforded plenty of rights. Those over the age of 21 have the right to drink alcohol, but they do not have the right to get into a car after drinking alcohol and hit someone else and kill them. She said that it is not about civil liberties. Most people know smoking is harmful, but they continue to do it. However, when they are smoking in public places, their personal choice inflicts harm on her.

Rich Strong, director of environmental health and safety at IUPUI, said that he is 100% convinced that this Committee is doing the right thing with this ordinance. He said that workers in bars should not be discriminated against and left unprotected. He said that

restaurants and bars have many regulations they must comply with, and there are some economic issues attached to these regulations. No one has a right to poison others with carcinogens, and employees do not always have the choice to go elsewhere for a job.

Michelle Harris, citizen, stated that she supports the ordinance in its most comprehensive form. She said that she wants to go out to bars and restaurants and spend money, but often does not because of the smoke. She said that it is absurd to teach children not to smoke because it is bad for their health, yet the policy and practice of adults contradicts that message. She said that she will be going to seminary next fall in California because of the smokefree environment, but she would like to return to live and work in Indianapolis, and that decision will be affected if this proposal is not passed.

Tom Neltner, Improving Kids' Environment, said that all but six people who have spoken this evening have said that they do not want kids to be exposed. Those six were focused on narrow economic interests. He said that it is important that there not be any exposure to smoke for children. He said that Chair Mansfield asked the Chamber to explain the negative economic impact, but never received an answer. He said that many people do not have a choice where they work and it is not a democracy, and those workers should be protected. He said that there are a lot of places he would like to go to see live bands, but cannot because of the smoke. This issue is not black or white, and this ordinance does not ban smoking in homes, but should ban it anywhere kids are exposed.

Jeffrey Kent, Wooden Nickel Bar & Grill, said that he polled his customers. Out of 95 people, 38 said they would not come back, 49 would not come as often, three did not care, and four would come more often. He said that he cannot run his business with seven customers. He said that this ordinance will put him out of work, and if the Committee is concerned about the effects of air pollution, they should ban automobiles and cigarettes completely.

Tonya Miller Bailey, citizen, said that she finds it discouraging that this issue is even being discussed, because it is common sense. She said that those who say there is no link between secondhand smoke and illnesses are simply not well-informed. She said that more people would be here to speak in favor of this proposal, but do not come for fear of losing their jobs. She said that she has visited other smokefree cities and thinks Indianapolis should follow their example.

Ricardo Imán, Wishard Hospital employee, said that many Hispanics will not come to testify because of the language barrier or fear of losing their job. He said that many Hispanics are affected because they take the jobs no one else wants and work in those smoking environments. He said that smoking kills and is a serious health issue. He thanked the Committee for helping the people.

Betty Bledsoe, citizen, said that she grew up in a home with chain smokers. Now she does not have the choices she used to and she is on treatments every three hours to

breathe. She said that she has helped raise 230 children through foster programs, and has 11 children here with her now. She said that hearing some of these people speaking about rights makes her sad, because for 20 years growing up, she had no rights. She said that she has had multiple surgeries and developed other illnesses because of the effect of secondhand smoke. She asked who will take care of her children when her health is too bad that she can no longer do so. She said that she pays over \$700 a month for insurance because of health risks caused when she had no protection. She said that the Governor and Mayor do not have to work in a smoke-filled environment and no one else should have to either.

Nicholas Bledsoe, 10-year-old, said that he has asthma and so do some of his other siblings. He said that it is not fair that they cannot go to a restaurant and enjoy time out with his family because other people are smoking.

Amanda Bledsoe, 18-year-old, said that she has had the right to smoke for a year, but has chosen not to, because of the health hazard. She said that it is not fair for her to make choices that affect others, and it is not fair for another to make a choice that affects her, either.

Travis Cross, outreach director of the Libertarian Party of Marion County, said that there is research that says secondhand smoke is harmful, but there is also research that says the effects are negligible. He said that there has been documented information that smokefree regulations are harmful to business economics. He said that no one on this Committee will lose money if this proposal is passed, but many business owners will. He said that if it is so wrong, it should be banned everywhere. He said that this proposal is irrational, and the Committee is not interested in protecting the rights of children and workers. This is simply another example of government trampling on the rights of an unpopular minority.

Tim Filler, Smoke Free Indy, said that every major medical and health organization agrees that secondhand smoke is harmful. The only ones who do not agree are those organizations associated with the tobacco industry. He said that he chooses to rely on the medical organizations' opinion. He said that ventilation equipment does not clean the air of carcinogens, and there is no acceptable level of secondhand smoke. Even the producers of this equipment put warnings on their equipment that says that they are not responsible for guarding the effects of secondhand smoke.

Moussa Cisse, Community Health Network, relayed a story about a trip to Africa where one patron asked the owner to ask his customers to stop smoking because it bothered him, and the owner complied because that person was his guest. He said that he wishes Indianapolis would follow that example.

Scott Eder, Harvester Bar & Grill, said that if his customers asked for a non-smoking establishment, he would give them what they wanted. He added that his industry has been asked to contribute more food and beverage taxes to build a new stadium. He

said that no one is allowed in his establishment under 21 years old, and this should be his decision at the request of his customers. He said if this proposal passes, he would be glad to accept bids on his restaurant, as he knows it will hurt his business.

Donna Adams, citizen, said that it is not the proper role of government to regulate smoking. She said that while there may be studies that show secondhand smoke to be harmful, there are other studies that contradict those findings. She said there are already an abundance of non-smoking establishments. She said that this ordinance will hurt convention business and local businesses.

Susan Lomelin, citizen, said that she is a registered nurse but is opposed to this ban for political reasons. She said that this is an intrusion on private business, and businesses should be allowed to run their business how they see fit. When cell phone use while driving was questioned, such a ban did not pass because there are other things that cause poor driving and not just cell phone use. One issue should not be singled out over another, and air pollution is a bigger problem because of car and factory emissions. She said that the government should stop regulating health. Next they will tell people they cannot be overweight.

Terry McCullough, citizen, said that she is sure everyone believes smoking is bad for health, but this ordinance is telling business owners whether or not they can allow a legal activity in their facility. She said that non-smokers do not have to patronize the smoking establishment. Individual workers should be allowed to make their own decisions about where they work and whether or not they want to risk their health.

Frederico Lomeli, citizen, said that America is the land of freedom, and this Committee serves because of the citizens' votes. He said that the Committee needs to protect the interests of everyone and not just a portion of the population. He said that many are afraid to be here to speak up, but this is a vote against freedom and the Committee should concentrate on real air pollution and not minor particles from a cigarette.

Chair Mansfield stated that this facility is located in Councillor Abdualлах's district and she invited him to make some remarks. Councillor Abdualлах thanked those who came to testify and said that he is grateful that so many have come out to make their views known. He said that he is firm in his position and believes that a smokefree ordinance is needed in this community for the health and welfare of the people.

Councillor Bradford said that he is encouraged by a media advisory he read today that some amendments are being considered, including excluding establishments for those over 21 years old, and extending the effective date to two years. He said that in Broad Ripple, new establishments were asked to provide family rooms, and now that they have worked diligently to provide more options for families, this ordinance will destroy all that hard work. He asked about clarification of outdoor seating and whether or not table umbrellas would make an area smokefree. Chair Mansfield said that there is a

definition of enclosed areas and they must have covering on at least two sides. A simple umbrella would not be an enclosed area.

Councillor Keller said that he heard tonight that there is a World Health Organization study available that says that secondhand smoke is not harmful. He said that his brother, Dr. Alan Keller, is the highest ranking American in the World Health Organization and he has done extensive research and contends that no such study exists.

Councillor Bowes thanked all citizens for coming out this evening and in the other public forums and said that these opinions will all be taken into consideration. He said that this is a community decision, and he encouraged citizens to continue to call and write their Councillors to let their voices be heard.

Chair Mansfield said that the next hearing of the Committee will be on April 21, 2005 in the City-County Building, and a vote is expected on the proposal at the May 5, 2005 meeting.

There being no further business, and upon motion duly made, the meeting was adjourned at 9:55 p.m.

Respectfully Submitted,

Angela Mansfield, Chair

AM/ag